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97TH CONGRESS
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HOUSE OF REPRESENTATIVES

REPORT
No. 97-928

Y1.1/8:97-928

ORIGINAL

COASTAL BARRIER RESOURCES ACT

OCTOBER 1, 1982.—Ordered to be printed

Mr. JONES of North Carolina, from the committee of conference, submitted the following

CONFERENCE REPORT

COMPLETED

[To accompany S. 1018]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1018) to protect and conserve fish and wildlife resources, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

SEC. 1. SHORT TITLE.

This Act may be cited as the "Coastal Barrier Resources Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) coastal barriers along the Atlantic and Gulf coasts of the United States and the adjacent wetlands, marshes, estuaries, inlets and nearshore waters provide—

(A) habitats for migratory birds and other wildlife; and

(B) habitats which are essential spawning, nursery, nesting, and feeding areas for commercially and recreationally important species of finfish and shellfish, as well as other aquatic organisms such as sea turtles;

(2) coastal barriers contain resources of extraordinary scenic, scientific, recreational, natural, historic, archeological, cultural, and economic importance; which are being irretrievably damaged and lost due to development on, among, and adjacent to, such barriers;

(3) coastal barriers serve as natural storm protective buffers and are generally unsuitable for development because they are vulnerable to hurricane and other storm damage and because natural shoreline recession and the movement of unstable sediments undermine manmade structures;

(4) certain actions and programs of the Federal Government have subsidized and permitted development on coastal barriers and the result has been the loss of barrier resources, threats to human life, health, and property, and the expenditure of millions of tax dollars each year; and

(5) a program of coordinated action by Federal, State, and local governments is critical to the more appropriate use and conservation of coastal barriers.

(b) PURPOSE.—The Congress declares that it is the purpose of this Act to minimize the loss of human life, wasteful expenditure of Federal revenues, and the damage to fish, wildlife, and other natural resources associated with the coastal barriers along the Atlantic and Gulf coasts by restricting future Federal expenditures and financial assistance which have the effect of encouraging development of coastal barriers, by establishing a Coastal Barrier Resources System, and by considering the means and measures by which the long-term conservation of these fish, wildlife, and other natural resources may be achieved.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) The term "undeveloped coastal barrier" means—

(A) a depositional geologic feature (such as a bay barrier, tombolo, barrier spit, or barrier island) that—

(i) consists of unconsolidated sedimentary materials,

(ii) is subject to wave, tidal, and wind energies, and

(iii) protects landward aquatic habitats from direct wave attack; and

(B) all associated aquatic habitats, including the adjacent wetlands, marshes, estuaries, inlets, and nearshore waters;

but only if such feature and associated habitats (i) contain few man-made structures and these structures, and man's activities on such feature and within such habitats, do not significantly impede geomorphic and ecological processes, and (ii) are not included within the boundaries of an area established under Federal, State, or local law, or held by a qualified organization as defined in section 170(h)(3) of the Internal Revenue Code of 1954, primarily for wildlife refuge, sanctuary, recreational, or natural resource conservation purposes.

(2) The term "Committees" refers to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Environment and Public Works of the Senate.

(3) The term "financial assistance" means any form of loan, grant, guaranty, insurance, payment, rebate, subsidy, or any other form of direct or indirect Federal assistance other than—

(A) general revenue-sharing grants made under section 102 of the State and Local Fiscal Assistance Amendments of 1972 (31 U.S.C. 1221);

(B) deposit or account insurance for customers of banks, savings and loan associations, credit unions, or similar institutions;

(C) the purchase of mortgages or loans by the Government National Mortgage Association, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation;

(D) assistance for environmental studies, planning, and assessments that are required incident to the issuance of permits or other authorizations under Federal law; and

(E) assistance pursuant to programs entirely unrelated to development, such as any Federal or federally assisted public assistance program or any Federal old-age survivors or disability insurance program.

Effective October 1, 1983, such term includes flooa insurance described in section 1321 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4028).

(4) The term "Secretary" means the Secretary of the Interior.

(5) The term "System unit" means any undeveloped coastal barrier, or combination of closely related undeveloped coastal barriers, included within the Coastal Barrier Resources System established by section 4.

SEC. 4. THE COASTAL BARRIER RESOURCES SYSTEM.

(a) ESTABLISHMENT.—(1) There is established the Coastal Barrier Resources System which shall consist of those undeveloped coastal barriers located on the Atlantic and Gulf coasts of the United States that are identified and generally depicted on the maps that are entitled "Coastal Barrier Resources System", numbered A01 through T12, and dated September 30, 1982.

(2) Any person or persons or other entity owning or controlling land on an undeveloped coastal barrier, associated landform or any portion thereof not within the Coastal Barrier Resources System established under paragraph (1) may, within one year after the date of enactment of this Act, elect to have such land included within the Coastal Barrier Resources System. This election shall be made in compliance with regulations established for this purpose by the Secretary not later than one hundred and eighty days after the date of enactment of this Act; and, once made and filed in accordance with the laws regulating the sale or other transfer of land or other real property of the State in which such land is located, shall have the same force and effect as if such land had originally been included within the Coastal Barrier Resources System.

(b)(1) As soon as practicable after the enactment of this Act, the maps referred to in paragraph (1) of subsection (a) shall be filed with the Committees by the Secretary, and each such map shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in each such map may be made. Each such map shall be on file and available for public inspection in the Office of the Director of the United States

Fish and Wildlife Service, Department of the Interior, and in other appropriate offices of the Service.

(2) As soon as practicable after the date of the enactment of this Act, the Secretary shall provide copies of the maps referred to in paragraph (1) of subsection (a) to the chief executive officer of (A) each State and county or equivalent jurisdiction in which a system unit is located, (B) each State coastal zone management agency in those States which have a coastal zone management plan approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) and in which a system unit is located, and (C) each appropriate Federal agency.

(c) BOUNDARY MODIFICATIONS.—(1) Within 180 days after the date of enactment of this Act, the Secretary may make such minor and technical modifications to the boundaries of system units as depicted on the maps referred to in paragraph (1) of subsection (a) as are consistent with the purposes of this Act and necessary to clarify the boundaries of said system units; except that, for system units within States which have, on the date of enactment, a coastal zone management plan approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455)—

(A) each appropriate State coastal zone management agency may, within 90 days after the date of enactment of this Act, submit to the Secretary proposals for such minor and technical modifications; and

(B) the Secretary may, within 180 days after the date of enactment of this Act, make such minor and technical modifications to the boundaries of such system units.

(2) The Secretary shall, not less than 30 days prior to the effective date of any such boundary modifications made under the authority of paragraph (1), submit written notice of such modification to (A) each of the Committees and (B) each of the appropriate officers referred to in paragraph (2) of subsection (b).

(3) The Secretary shall conduct, at least once every five years, a review of the maps referred to in paragraph (1) of subsection (a) and make, in consultation with the appropriate officers referred to in paragraph (2) of subsection (b), such minor and technical modifications to the boundaries of system units as are necessary solely to reflect changes that have occurred in the size or location of any system units as a result of natural forces.

(4) If, in the case of any minor and technical modification to the boundaries of system units made under the authority of this subsection, an appropriate chief executive officer of a State, county or equivalent jurisdiction, or State coastal zone management agency to which notice was given in accordance with this subsection files comments disagreeing with all or part of the modification and the Secretary makes a modification which is in conflict with such comments, or if the Secretary fails to adopt a modification pursuant to a proposal submitted by an appropriate State coastal zone management agency under paragraph (1)(A), the Secretary shall submit to the chief executive officer a written justification for his failure to make modifications consistent with such comments or proposals.

SEC. 5. LIMITATIONS ON FEDERAL EXPENDITURES AFFECTING THE SYSTEM.

(a) Except as provided in section 6, no new expenditures or new financial assistance may be made available under authority of any Federal law for any purpose within the Coastal Barrier Resources System, including, but not limited to—

(1) the construction or purchase of any structure, appurtenance, facility, or related infrastructure;

(2) the construction or purchase of any road, airport, boat landing facility, or other facility on, or bridge or causeway to, any System unit; and

(3) the carrying out of any project to prevent the erosion of, or to otherwise stabilize, any inlet, shoreline, or inshore area, except that such assistance and expenditures may be made available on units designated pursuant to section 4 on maps numbered S01 through S08 for purposes other than encouraging development and, in all units, in cases where an emergency threatens life, land, and property immediately adjacent to that unit.

(b) An expenditure or financial assistance made available under authority of Federal law shall, for purposes of this Act, be a new expenditure or new financial assistance if—

(1) in any case with respect to which specific appropriations are required, no money for construction or purchase purposes was appropriated before the date of the enactment of this Act; or

(2) no legally binding commitment for the expenditure or financial assistance was made before such date of enactment.

SEC. 6. EXCEPTIONS.

(a) Notwithstanding section 5, the appropriate Federal officer, after consultation with the Secretary, may make Federal expenditures of financial assistance available within the Coastal Barrier Resources System for—

(1) any use or facility necessary for the exploration, extraction, or transportation of energy resources which can be carried out only on, in, or adjacent to coastal water areas because the use or facility requires access to the coastal water body;

(2) the maintenance of existing channel improvements and related structures, such as jetties, and including the disposal of dredge materials related to such improvements;

(3) the maintenance, replacement, reconstruction, or repair, but not the expansion, of publicly-owned or publicly-operated roads, structures, or facilities that are essential links in a larger network or system;

(4) military activities essential to national security;

(5) the construction, operation, maintenance, and rehabilitation of Coast Guard facilities and access thereto; and

(6) any of the following actions or projects, but only if the making available of expenditures or assistance therefor is consistent with the purposes of this Act:

(A) Projects for the study, management, protection and enhancement of fish and wildlife resources and habitats, including, but not limited to, acquisition of fish and wild-

life habitats and related lands, stabilization projects for fish and wildlife habitats, and recreational projects.

(B) The establishment, operation, and maintenance of air and water navigation aids and devices, and for access thereto.

(C) Projects under the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–4 through 11) and the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.).

(D) Scientific research, including but not limited to aeronautical, atmospheric, space, geologic, marine, fish and wildlife and other research, development, and applications.

(E) Assistance for emergency actions essential to the saving of lives and the protection of property and the public health and safety, if such actions are performed pursuant to sections 305 and 306 of the Disaster Relief Act of 1974 (42 U.S.C. 5145 and 5146) and section 1362 of the National Flood Insurance Act of 1968 (42 U.S.C. 4103) and are limited to actions that are necessary to alleviate the emergency.

(F) The maintenance, replacement, reconstruction, or repair, but not the expansion, of publicly owned or publicly operated roads, structures, or facilities.

(G) Nonstructural projects for shoreline stabilization that are designed to mimic, enhance, or restore natural stabilization systems.

(b) For purposes of subsection (a)(2), a channel improvement or a related structure shall be treated as an existing improvement or an existing related structure only if all, or a portion, of the moneys for such improvement or structure was appropriated before the date of the enactment of this Act.

SEC. 7. CERTIFICATION OF COMPLIANCE.

The Director of the Office of Management and Budget shall, on behalf of each Federal agency concerned, make written certification that each such agency has complied with the provisions of this Act during each fiscal year beginning after September 30, 1982. Such certification shall be submitted on an annual basis to the House of Representatives and the Senate pursuant to the schedule required under the Congressional Budget and Impoundment Control Act of 1974.

SEC. 8. PRIORITY OF LAWS.

Nothing contained in this Act shall be construed as indicating an intent on the part of the Congress to change the existing relationship of other Federal laws to the law of a State, or political subdivision of a State, or to relieve any person of any obligation imposed by any law of any State, or political subdivision of a State. No provision of this Act shall be construed to invalidate any provision of State or local law unless there is a direct conflict between such provision and the law of the State, or political subdivision of the State, so that the two cannot be reconciled or consistently stand together. This Act shall in no way be interpreted to interfere with a State's right to protect, rehabilitate, preserve, and restore lands within its established boundary.

SEC. 9. SEPARABILITY.

If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of such provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

SEC. 10. REPORTS TO CONGRESS.

(a) IN GENERAL.—Before the close of the 3-year period beginning on the date of the enactment of this Act, the Secretary shall prepare and submit to the Committees a report regarding the System.

(b) CONSULTATION IN PREPARING REPORT.—The Secretary shall prepare the report required under subsection (a) in consultation with the Governors of the States in which system units are located and with the coastal zone management agencies of the States in which System units are located and after providing opportunity for, and considering, public comment.

(c) REPORT CONTENT.—The report required under subsection (a) shall contain—

(1) recommendations for the conservation of the fish, wildlife, and other natural resources of the System based on an evaluation and comparison of all management alternatives, and combinations thereof, such as State and local actions (including management plans approved under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.)), Federal actions (including acquisition for administration as part of the National Wildlife Refuge System), and initiatives by private organizations and individuals;

(2) recommendations for additions to, or deletions from, the Coastal Barrier Resources System, and for modifications to the boundaries of System units;

(3) a summary of the comments received from the Governors of the States, State coastal zone management agencies, other government officials, and the public regarding the System; and

(4) an analysis of the effect, if any, that general revenue sharing grants made under section 102 of the State and Local Fiscal Assistance Amendments of 1979 (21 U.S.C. 1221) have had on undeveloped coastal barriers.

SEC. 11. AMENDMENTS REGARDING FLOOD INSURANCE.

(a) Section 1321 of the National Flood Insurance Act of 1968 (42 U.S.C. 4028) is amended to read as follows:

"UNDEVELOPED COASTAL BARRIERS

"SEC. 1321. No new flood insurance coverage may be provided under this title on or after October 1, 1983, for any new construction or substantial improvements of structures located on any coastal barrier within the Coastal Barrier Resources System established by section 4 of the Coastal Barrier Resources Act. A federally insured financial institution may make loans secured by structures which are not eligible for flood insurance by reason of this section.".

(b) Section 341(d)(2) of the Omnibus Budget and Reconciliation Act of 1981 (Public Law 97-35) is repealed.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Department of the Interior $1,000,000 for the period beginning October 1, 1982, and ending September 30, 1985, for purposes of carrying out sections 4 and 10.

And the House agree to the same.

From the Committee on Merchant Marine and Fisheries:

WALTER B. JONES,
JOHN B. BREAUX,
GERRY E. STUDDS,
WILLIAM J. HUGHES,
GENE SNYDER,
EDWIN B. FORSYTHE,
THOMAS B. EVANS, Jr.,

From the Committee on Public Works and Transportation:

ROBERT A. ROE,
BOB EDGAR,
JOHN G. FARY,
DON H. CLAUSEN,
JOHN PAUL HAMMERSCHMIDT,

Managers on the Part of the House.

ROBERT T. STAFFORD,
JOHN H. CHAFEE,
SLADE GORTON,
JENNINGS RANDOLPH,
DANIEL P. MOYNIHAN,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1018) to protect and conserve fish and wildlife resources, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SECTION-BY-SECTION ANALYSIS

Section 1. Title

The short title of this bill is the "Coastal Barrier Resources Act."

Section 2. Findings and Purpose

Section 2 of the Conference substitute contains the findings and purpose of the Act. Section 2(a) adopts the "Findings" provision appearing in the House amendment. Section 2(b) of the Conference substitute combines provisions appearing in both the Senate bill and the House amendment. The provision declares that it is the purpose of the Act to minimize the loss of human life, wasteful expenditure of Federal revenues, and damage to fish, wildlife, and other natural resources associated with coastal barriers along the Atlantic and Gulf coasts. This will be accomplished by restricting Federal expenditures and financial assistance which have the effect of encouraging development of coastal barriers and by considering the means and measures by which the long-term conservation of these fish, wildlife and other natural resources may be achieved.

Section 3. Definitions

Section 3 of the Conference report adopts provisions appearing in both the Senate bill and the House amendment. The House amendment exempted general or special revenue sharing grants made to the states from the definition of "financial assistance". The Conferees agreed to delete the language regarding special revenue shar-

ing grants and make the exemption applicable only to general revenue sharing grants made under Section 102 of the State and Local Fiscal Assistance Amendments of 1972 (31 U.S.C. 1221). Although general revenue sharing funds may be spent on undeveloped coastal barriers, the Conferees are concerned about the possible impact it may have in those areas. Therefore, the Conferees instructed the Department of the Interior to examine, in its report to Congress pursuant to Section 10 of S. 1018, the effects, if any, of general revenue sharing on the Coastal Barrier Resources System.

Both the Senate and the House reports stated that the term "financial assistance" was not intended to restrict funds on undeveloped coastal barriers for programs entirely unrelated to development such as the Social Security Program, the Food Stamp Program, the Medicaid and Medicare Programs or other social programs. The Conferees agreed to amend the definition of financial assistance to further clarify this intent.

The definition of "financial assistance" specifically incorporates flood insurance issued under the National Flood Insurance Act of 1968. However, in keeping with the language of Section 1321 of that Act, the flood insurance prohibition under the Conference report will not become effective until October 1, 1983. After that date, any new construction or substantial improvement of a structure located on an undeveloped coastal barrier identified in Section 4 of the Act, will be ineligible for Federal flood insurance.

Section 4. The Coastal Barrier Resources System

Section 4(a) establishes the Coastal Barrier Resources System consisting of those undeveloped coastal barriers depicted on the maps entitled "Coastal Barrier Resources System" numbered A01 through T12. There were differences between the Senate and the House maps. The Conferees agreed to resolve the differences between the Senate and the House maps in the following manner:

Texas

Sea Rim—T01—Senate map.
High Island—T02—Senate map.
Bolivar Peninsula—T03—Senate map.
Follets Island—T04—Senate map.
River Complex—T05—Senate map.
Sargent Beach—T06—Senate map.
Matagorda Peninsula—T07 (2 maps)—Senate maps.
San Jose Island Complex—T08 (2 maps)—Senate maps.
North Padre Island—T10—Senate map.
South Padre Island—T11—House map.
Boca Chica—T12—Senate map.

Louisiana

Sabine—S11—House map.

Mississippi

Belle Fountaine Point Unit—R01A—House map.
Cat Island—R03—Conference map.

Alabama

Mobile Point Unit—Q01—Conference map.

Florida

Guana River—P04—Unit deleted.
Usinas Beach—P04A—House map.
Coconut Point—P09A—Senate map.
Blue Hole Unit—P10A—House map.
Hutchison Island—P11—House map.
Keewaydin Island—P16—House map.
Lovers Key—P17—House map.
Sanibel Island—P18—House map.
Casey Key Complex—P22—Senate map.
Mandalay Point Unit—P24A—House map.
Four Mile Village—P31A—House map.
Moreno Point—P32—Senate map.

Georgia

St. Catherine's Island—N02—Unit deleted.
Little Cumberland Island Unit—N05—House map.

South Carolina

Pawleys Inlet—M03—Senate map.
Captain Sam's Inlet—M08—House map.

North Carolina

Hatteras Island—L03—Conference map.
Wrightsville Beach—L08—House map.

Virginia

No differences.

Delaware

Broadkill Beach Complex—H00—Conference map.

New Jersey

Stone Harbor Point—G01—Unit deleted.
Cape May Complex—G02—Unit deleted.

New York

Old Field Beach—F05—Senate map.
Southhampton Unit—F12—Senate map.

Connecticut

No differences.

Rhode Island

Little Compton Ponds—D01—Senate map.
Card Ponds—D03—Senate map.
Green Hill Beach—D04—Senate map.
East Beach—D05—Senate map.
Quonochontaug Beach—D06—Senate map.

Massachusetts

West Head Beach—C01C—House map.
Rexham—C03A—House map.
Lewis Bay Unit—C13A—House map.
Buzzards Bay—C19A (3 maps)—Interior map and House maps.
Squibnocket Complex—C29 (2 maps)—Interior map and House map.
West Sconticut—C31A (2 maps)—Interior map and House map.
Cedar Cove Unit—C34A—House map.

Maine

Sprague Neck Bar—A02—Unit deleted.
Grassy Point—A02A—Unit deleted.
Rogue Bluffs Beach—A03A—Unit deleted.
Head Beach—A05B—House map.
Starboard Unit—A10—House map.
Popplestone Beach/Roque Island—A11—House map.
Bailey's Mistake—A12—House map.
Jenks Landing/Waldo Point—A13—House map.

Section 4(c) of the Act outlines the process by which the Secretary may make minor boundary modifications. The Conferees agreed to accept an amendment offered and agreed to on the Senate Floor which gives a very limited role to the State coastal zone management agencies in making minor boundary modifications. Under the provisions of the Senate bill, State coastal zone management agencies may submit proposals for such modifications. The Conferees agreed to modify this provision by shortening the 180-day period for these comments to 90 days. If the Secretary fails to adopt such proposals, he must give the agency a written justification for his failure to make modifications consistent with such proposals. This language does not change the intent of the original provisions of the Senate bill or the House amendments. Section 4(c) of S. 1018 and H.R. 3252 instructed the Secretary to consider making minor and technical boundary modifications to the Coastal Barrier Resources System unit maps which are "*consistent* with the purposes of the Act *and necessary* to clarify the boundaries of said system units . . ." (emphasis added). This dual standard is maintained despite the provision giving a limited role to the State coastal zone management agencies—boundary modifications must be minor and technical changes consistent with the Act and limited to those necessary to clarify boundaries. It is not the intent of the Conferees or the Congress to permit the Secretary of the Interior to rework the Coastal Barrier Resources System to add areas that have been deleted from the maps during the deliberations concerning this legislation or to delete areas that Congress has included.

With respect to additions, deletions or major modifications to the System, the Conferees note the possible need for substantive changes to the Coastal Barrier Resources System. This is addressed in a separate section of this legislation. Section 10 of the bill requires the Secretary to prepare a report within three years of enactment concerning "recommendations for additions to, or deletions from, the Coastal Barrier Resources System . . .". These recommendations will then be considered by the appropriate Congres-

sional Committees and, if appropriate, an amendment to the legislation may be acted upon by the Congress.

There is one exception to this approach. The Conferees agreed to an amendment added to the Senate bill during initial Floor consideration. Section 4(a)(2) allows for additions to the Coastal Barrier Resources System at the request of those who own appropriate areas. As explained when introduced, this provision is a straightforward attempt to deal with a difficult situation. Quite simply, it permits landowners to join the System even though they may not technically qualify. This provision is not designed to serve as a vehicle to stop an otherwise eligible Federal project through the purposeful inclusion of an area not specifically included by the Congress within the Coastal Barrier Resources System.

Section 5. Limitations on Federal Expenditures Affecting The System

Section 5 specifies the limitations on new Federal financial expenditures or assistance. The Conferees agreed to provisions appearing in both the Senate bill and the House amendment and modified a provision of the House amendment concerning stabilization and erosion control projects in Louisiana. As modified, section 5(a)(3) provides a limited exception to the prohibition of expenditures for stabilization projects. Expenditures for such projects are permissible within the units designated pursuant to Section 4 on maps numbered SO1 through SO8 if such projects are for purposes other than encouraging development and, within all units, in cases where an emergency threatens life, land, and property immediately adjacent to the unit in question.

The limitations contained in Section 5 apply to areas within the Coastal Barrier Resources System as well as certain other facilities that may extend into a System unit, such as a bridge or a causeway. There need not be a showing that the expenditure would stimulate development. Except as provided in the Section 5(a)(3) exception, the fact that a particular project may be designed to benefit a non-coastal barrier is not significant.

Section 6. Exceptions

Section 6 of the Conference report outlines the specific exceptions to the general prohibition on new Federal expenditures or financial assistance.

Under Section 6(a) of the Senate bill the appropriate Federal officer would be authorized to make those specific Federal expenditures after providing written notification to the Secretary. The Conferees agreed to accept the House provision which requires the appropriate Federal officer to consult with the Secretary before making any Federal expenditures or financial assistance available under the provisions of Section 6.

Section 6(a)(1) provides an exception for energy projects in or adjacent to coastal areas. Both the Senate bill and the House amendment contained similar provisions and the Conferees agreed to adopt the House language. Federal assistance or expenditures may be made available for "any use or facility necessary for the exploration, extraction, or transportation of energy resources which can

be carried out only on, in, or adjacent to coastal water areas because the use or facility requires access to the coastal water body."

Section 6(a)(3) of the Conference report contains a provision included in the House amendment which provides an exception for the maintenance, replacement, reconstruction, or repair of publicly owned or publicly operated roads, structures or facilities that are essential links in a larger network or system.

Section 6(a)(4) exempts military activities essential to national security from the general prohibition of Federal expenditures or financial assistance under Section 5. The Conferees agreed that the determination as to whether military activities are essential to national security must be made in accordance with existing law and procedure.

The Conference report adopts the exception for Coast Guard facilities which was included in the House amendment and requested by the Coast Guard. Section 6(a)(5) allows expenditures or financial assistance for the construction, maintenance, operation and rehabilitation of Coast Guard facilities.

The Senate bill contained an exemption for certain programs and projects for fish and wildlife conservation so long as such projects were consistent with the purposes of the Act. The House amendment contained a similar provision but such projects did not have to be consistent with the purposes of the Act. The Conferees agreed to accept the House language. However, under the language in Section 6(a)(7)(A), such projects must be consistent with the purposes of the Act.

The House amendment contained an exception for projects under the Coastal Zone Management Act—a provision not included in the Senate bill. The Conferees agree to adopt the House provision which is incorporated in Section 6(a)(6)(C) of the Conference report.

The House amendment provided an exception for assistance for emergency actions essential to the saving of lives and the public health and safety. The Senate bill contained a similar provision but limited the exception to those actions necessary to alleviate the immediate emergency. The Conference report adopts a modified provision in Section 6(a)(6)(E) which permits assistance for emergency actions if such actions are performed pursuant to sections 305 and 306 of the Disaster Relief Act of 1974 and section 1362 of the National Flood Insurance Act of 1968 and are limited to actions that are necessary to alleviate the emergency. Section 305 of the Disaster Relief Act authorizes the President, in a declared emergency, to provide any or all of the assistance available under the Act as the President deems appropriate.

Section 7. Certification of Compliance

Section 7 adopts provisions appearing in both the Senate bill and the House amendment.

Section 8. Priority of Laws

Section 8 of the Conference report adopts a provision of the Senate bill. This section assures that this Act will not interfere with the current delicate balance between other Federal laws operating with regard to coastal barrier areas and State and local laws. Additionally, this section protects local interests by providing that

this Act is not intended to preempt State or local laws unless there is a direct conflict.

Section 9. Separability

Section 9 of the Conference report adopts a provision of the Senate bill not contained in the House amendment. This section is a standard separability provision. It provides that each provision and application of this law will be judged on its own merits.

Section 10. Reports to Congress

This section adopts a provision that appeared in both the Senate bill and the House amendment. The Conferees agreed to adopt the Senate language and to add a requirement that the Secretary's report include an analysis of the effect, if any, that general revenue sharing grants have had on undeveloped coastal barriers.

The Secretary's report will also include recommendations for additions to or deletions from the Coastal Barrier Resources System. While the conferees do not intend that areas developed after the date of the Act should be recommended for deletion for development reasons, they recognized that in a few areas further study may reveal possible errors. In particular, the conferees are aware that there is a dispute regarding the geological composition of Coconut Point, Florida. There is also a dispute regarding the development status of approximately 114 acres of the Wilfurt Woods property on the west end of the Island of Sanibel, Florida. These 114 acres are part of a planned unit development which has been approved in a settlement agreement between the owners of the property and the Sanibel-Captiva Conservation Foundation. Finally, there is a question regarding the conservation status of an area included in the Casey Key, Florida, map. The conferees intend that the Department of the Interior study these areas and report to the appropriate committees as soon as practicable to insure that any errors may be addressed legislatively. The Conferees intend that any reports transmitted by the Secretary under this section, as well as any maps and notifications of boundary modifications under Section 4, shall also be submitted to the Committee on Public Works and Transportation of the House of Representatives.

Section 11. Amendment Regarding Flood Insurance

Section 11(a) adopts the House language amending Section 1321 of the National Flood Insurance Act of 1968. Section 11(b) adopts the Senate language amending Section 341(d)(2) of the Omnibus Budget and Reconciliation Act of 1981.

From the Committee on Merchant Marine and Fisheries:

WALTER B. JONES,
JOHN B. BREAUX,
GERRY E. STUDDS,
WILLIAM J. HUGHES,
GENE SNYDER,
EDWIN B. FORSYTHE,
THOMAS B. EVANS, Jr.,

From the Committee on Public Works and Transportation:

ROBERT A. ROE,
BOB EDGAR,

JOHN G. FARY,
DON H. CLAUSEN,
JOHN PAUL HAMMERSCHMIDT,
Managers on the Part of the House.

ROBERT T. STAFFORD,
JOHN H. CHAFEE,
SLADE GORTON,
JENNINGS RANDOLPH,
DANIEL P. MOYNIHAN,
Managers on the Part of the Senate.

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